

14-2. Response

1. **AUTHORITY.** To respond to any release or threatened release of a hazardous substance, pollutant, or contaminant pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, Section 104, and 40 CFR Part 300, “National Oil and Hazardous Substances Pollution Contingency Plan.”

2. **TO WHOM DELEGATED.**

- a. With the exception of the authority to select the remedy in a Record of Decision when the estimated cost of the remedy exceeds \$50 million, all other authorities are delegated to the Director, Hazardous Site Cleanup Division (HSCD).
- b. The authority to determine the need for response and to select and initiate removal actions costing up to \$250,000 where site conditions constitute an emergency and up to \$50,000 where site conditions do not constitute an emergency is delegated to the On-Scene Coordinators located in the Office of Preparedness and Response, HSCD.
- c. The authority to determine the need for, select, and initiate removal response actions costing up to \$2 million and lasting no longer than 12 months from the date of initial response is delegated to the Director, HSCD.
- d. When the emergency waiver in Section 104(c)(1)(A) of CERCLA is used
 - i. the authority to select removal response actions costing up to \$6 million and/or lasting longer than 12 months is delegated to the Director, HSCD; and
 - ii. the authority to select removal response actions costing more than \$6 million is delegated, subject to such approval by the Assistant Administrator for Solid Waste and Emergency Response (AA/OLEM) as may be required, to the Director, HSCD.
- e. When the consistency waiver in Section 104(c)(1)(C) of CERCLA is used, the authority to select removal actions costing more than \$2 million and/or lasting longer than 12 months is delegated, subject to such approval of the AA/OLEM as may be required, to the Director, HSCD.
- f. The authority to determine the necessity of, to select by signing a Record of Decision, is delegated to the Director, HSCD. The authority to approve Records of Decision selecting No Action is delegated to the Associate Director, Office of Superfund Site Remediation, HSCD.

3. **LIMITATIONS.**

- a. When the estimated cost of the remedy exceeds \$50 million, the Administrator, or his delegatee, reserves the authority to select the remedy in the Record of Decision.
- b. These authorities shall be exercised subject to approved funding levels.
- c. The delegated authorities may be exercised only at sites located within Region III,

unless there is a memorandum of agreement that authorizes cross-boundary emergency response.

- d. The delegates may select a response action consistent with the delegations in Paragraph 2, above. Consultation prior to selection may be required by memorandum from the AA/OLEM.
- e. The delegatee exercising authority in Paragraph 2(f), above, must obtain the concurrence of the Regional Counsel before signing a Record of Decision and selecting a remedial action.
- f. Unless waived by memorandum, the AA OLEM must approve the use of the consistency waiver in Section 104(c)(1)(C) of CERCLA for removal actions at sites not proposed to or final on the National Priorities List (NPL).
- g. When the emergency waiver in Section 104(c)(1)(A) is used, the delegates may, consistent with the delegations in Paragraph 2, above, approve removal actions costing up to \$6 million. Such delegates must seek approval from the AA OLEM for removal actions costing more than \$6 million and requiring the emergency waiver. This limitation may be waived or modified by memorandum from the AA OLEM.
- h. Unless waived by memorandum, the AA OLEM must concur prior to the initiation of a removal action at non-NPL sites where the proposed action is on the List of Nationally Significant or Precedent-Setting Removal Action categories.

4. **REDELEGATION AUTHORITY.** These authorities may not be redelegated without formal amendment. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.

5. **ADDITIONAL REFERENCES.**

- a. CERCLA, Sections 101(23), 101(24), 105, 113, 116, 117, 118, 120, 121, and 126(b).
- b. 40 CFR 35, Subpart O, "Cooperative Agreements and Superfund State Contracts for Superfund Response Actions."
- c. EPA Delegation 14-1, Superfund State Contracts and Cooperative Agreements.
- d. EPA Delegation 14-17, National Priorities List.
- e. EPA Delegation 14-22, Response Action Administrative Record.
- f. EPA Delegation 14-30, Acquisition of Property.
- g. Limited Contracting Officer Warrant Authority issued to designated OSCs.
- h. "Use of Non-Time-Critical Removal Authority in Superfund Response Actions," OSWER Directive 9360.0-40P, February 14, 2000, specifying the Director, Office of Emergency and Remedial Response/OLEM will consult with the Director, Office of Site Remediation Enforcement/Office of Enforcement and Compliance Assurance prior to concurring on any engineering evaluation/cost analysis approval memorandum for a Fund-lead action that could exceed \$6 million.
- i. "Revisions to CERCLA Delegations of Authority 14-2 Responses and 14-21A Consultations, Determinations, Reviews, and Selection of Remedial Actions at

Federal Facilities,” Memorandum from Administrator E. Scott Pruitt, May 9, 2017.

- j. All other directives, policy, and guidance issued by OLEM and OECA pertaining to response and consultation requirements.

- 6. **SUPERSESSION.** Delegations Manual, CERCLA, Regional Delegation 14-2. Response, 1200 TN RIII-173, (November 12, 2008).

Date: __8/3/2017__

_____/s/
Cecil Rodrigues
Acting Regional Administrator